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## SECTION H

### SPECIAL REQUIREMENTS

#### H.1 Additional And Revised Definitions

Refer to the General Provisions and make the following changes to the article titled "Definitions." Add the following Definitions:

##### H.1.1

FEMP means the Fernald Environmental Management Project.

##### H.1.2

Notice to Proceed - A written notice, signed by the FDF Contract Administrator, issued to the Contractor per Table C.4-1, Contractor Submittal Register.

##### H.1.3

Authorization to Mobilize - A written notice, signed by the FDF Contract Administrator, issued to the Contractor, upon written request from the Contractor, and after completion of activities identified in Section C, authorizing the Contractor to proceed with approved on-site work.

##### H.1.4

Authorization to Operate - A written notice, signed by the FDF Contract Administrator, issued to the Contractor, upon written request from the Contractor, and after completion of activities identified in Section C, authorizing the Contractor to proceed with operations.

##### H.1.5

Contract Modification - A document issued to incorporate any changes to the contract documents.

##### H.1.6

FDF Contract Administrator - The authorized representative of FDF, who is appointed by the Procurement Manager to administer the contract and is the only person (other than those identified in Section H.3) authorized to make changes to the contract.

#### H.1.7

Contractor - The person or organization entering into this contract with FDF.

#### H.1.8

Subcontractor - Lower-tier contractors having a contract with the Contractor or another lower-tier contractor.

#### H.1.9

Acceptance (For Warranty Purposes) - The issuance of a Final Acceptance Report by FDF signifying that the supplies and/or services provided by the Contractor are complete and FDF takes responsibility for them.

### H.2 Technical Direction

#### H.2.1

Performance of the work under this contract shall be subject to the technical direction of the FDF Technical Representative identified in Section G.1. The term "technical direction" is defined to include, with limitation:

##### H.2.1.1

Directions to the Contractor related to items such as health and safety and/or environmental regulatory requirements, which may redirect the contract effort, shift work emphasis between areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual SOW.

##### H.2.1.2

Provision of written information to the Contractor which assists in the interpretation of drawings, specifications, or technical portions of the work description.

##### H.2.1.3

Review and, where required by FDF, approval of technical reports, drawings, specifications, and technical information to be delivered by the Contractor to FDF under the contract.

#### H.2.2

All technical direction shall be within the SOW stated in the contract and shall be issued in writing by the appropriate FDF Technical Representative. The FDF Technical Representative does not have the authority to, and may not, issue any technical direction which:

H.2.2.1

Constitutes an assignment of additional work outside the SOW;

H.2.2.2

Constitutes a change as defined in the General Provisions for Firm-Fixed Price Supply/Services Contracts, dated August 1994, clause A.42 entitled Changes;

H.2.2.3

In any manner causes an increase or decrease in the price or the time required for contract performance;

H.2.2.4

Changes any of the expressed terms, conditions, or SOW of the contract; or

H.2.2.5

Interferes with the Contractor's right to perform the terms and conditions of the contract.

H.2.3

The Contractor shall proceed promptly with the performance of technical directions duly issued by the FDF Technical Representative in the manner prescribed by this article and within its authority under the provision of this article. If, in the opinion of the Contractor, any instruction or direction by the appropriate FDF Technical Representative falls within one of the categories defined in Sections H.2.2.1 through H.2.2.5 above, the Contractor shall not proceed, but shall notify the FDF Contract Administrator identified in Section G.1 to modify the contract accordingly. Upon receiving the notification from the Contractor, the FDF Contract Administrator shall:

H.2.3.1

Advise the Contractor and FDF Technical Representative in writing within 30 calendar days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the "Changes" Clause of the FDF General Provisions; or

#### H.2.3.2

Advise the Contractor and FDF Technical Representative within 30 calendar days after receipt of the Contractor's letter not to perform under the direction and to cancel the direction; or

#### H.2.3.3

Advise the Contractor and FDF Technical Representative identified in Section G.1 that the technical direction is within the scope of the contract. If the Contractor disagrees with the FDF Contract Administrator's decision, advise the Contractor that failure to agree upon the action to be taken with respect thereto shall be subject to the General Provision clause entitled "Disputes;" or

#### H.2.3.4

Advise the Contractor in writing within 30 calendar days that FDF will issue a written change order.

### H.3 Contract Administration

The FDF representatives listed in this clause are the only individuals authorized to bind FDF contractually in performance of the work under this contract:

Contract Administrator  
Manager, Purchasing  
Manager, Contracts and Asset Management

### H.4 Modification Authority

Notwithstanding any of the other clauses of this contract, the individuals identified in Section H.3 shall be the only individuals authorized to:

H.4.1 Accept nonconforming work/supplies;

H.4.2 Waive any requirement of this contract;

H.4.3        Modify any term or condition of this contract; or

H.4.4        Increase or decrease contract price.

H.5           Notification Of Debarment/Suspension Status

The Contractor shall provide immediate notice to the FDF Contract Administrator in the event of being suspended, debarred, or declared ineligible by the DOE or the General Services Administration (GSA) or upon receipt of a notice of proposed debarment from either agency during performance of this contract.

H.6           Assignment of Former FERMCO/Fluor Daniel Fernald, Inc. Employees for Contract Work

H.6.1

The Contractor shall not direct charge any costs to this contract arising from work or tasks performed by any former FERMCO/FDF employee who was separated voluntarily from FERMCO pursuant to the FY 1995 FEMP Work Force Restructuring Plan for a period of five years from the effective date of former employees' retirement or voluntary separation.

H.6.2

The Contractor shall provide written certification of compliance with the provisions of this clause upon request of FDF.

H.6.3

If the Contractor fails to comply with the provisions of this clause, this contract may be terminated for default in accordance with the FERMCO/FDF General Provision entitled Termination.

H.6.4

The Contractor shall insert the provisions of Section H.6, including this paragraph, in all contracts hereunder.

H.7           Termination Buy Out Clause

H.7.1



## Equipment and Real Property Facilities.

### H.7.1.1

In the event this contract is terminated for any reason, FDF shall have the right, at its sole discretion, to purchase all or any part of the equipment and real property facilities which the Contractor has used in the prosecution of the contract work at the FEMP site. FDF will notify the Contractor in writing no later than 60 calendar days after the termination whether it desires to exercise this right and shall identify the equipment and real property facilities which it wishes to purchase. However, this notice shall not bind FDF to purchase any or all of the specified equipment and real property facilities. The Contractor agrees that, upon receipt of such notice, it will promptly negotiate a fair and equitable price for FDF's purchase of the specified equipment and real property facilities. The equitable adjustment shall not exceed the undepreciated cost of the specified equipment, as reflected in Contractor's Equipment Depreciation Schedule, as incorporated into Attachment J.4.40 of this contract, and shall also take into account costs which the Contractor would otherwise incur to demobilize, decontaminate, and remove or dispose of the equipment. To implement this option, FDF and the Contractor shall execute a bilateral contract modification obligating any additional funds required.

### H.7.1.2

FDF shall have the right to use any technical data or computer software necessary to operate and maintain any such equipment purchased from the Contractor at no additional charge.

### H.7.2

If the contract is terminated for convenience, the termination settlement shall not include any payment for costs included in any Termination Buy Out equitable adjustment negotiated pursuant to the provisions set out above.

## H.8 Substance Abuse Programs

In accordance with the FDF General Provision for Firm Fixed Price Supply/Services Contracts Section IA, Article A.55, entitled FERMCO Substance Abuse Program and Section D, Article D.12 entitled Workplace Substance Abuse Program at DOE Sites, the Contractor shall submit its written Substance Abuse Program within 30 calendar days after contract award for FDF concurrence. This plan shall then be implemented within 30 calendar days of receipt of FDF's written concurrence.

## H.9 Ordering

#### H.9.1

Upon contract award, line item 001, Section B, B.2-1, shall be obligated and considered ordered. Additional services to be furnished under this contract shall be ordered by the exercise of option items via issuance of a unilateral contract modification by individuals designated in Section H.3, Contract Administration.

#### H.9.2

All modifications requesting services are subject to the terms and conditions of this contract. In the event of conflict between a contract modification and this contract, the contract shall control.

#### H.9.3

A contract modification is considered "issued" when FDF deposits the contract modification in the mail. Contract modifications may be issued orally, by facsimile, or by electronic mail methods only if authorized in the Schedule.

#### H.9.4

The Contractor is not authorized to incur costs or receive payment for performance of work for quantities in excess of the ordered amount until a contract modification authorizing the additional work is executed.

#### H.10 Subcontracts

##### H.10.1

The Contractor shall define the limits of work of its subcontractors and to provide a complete job description.

##### H.10.2

The Contractor shall be fully responsible to FDF for the acts and omissions of its subcontractors and of all persons either directly or indirectly employed by them, just as the Contractor shall be responsible for the acts and omissions of persons directly or indirectly employed by it under this contract.

## H.10.3

Nothing contained in this contract shall be construed as creating a contractual relationship between any subcontractor and FDF nor as relieving the Contractor of its obligations to FDF hereunder.

## H.11 Holidays

## H.11.1

Holidays will be observed in accordance with provisions of the PLA and CBA, this contract, and its attachments. The following table lists holidays:

Table H.11-1 Holidays

	FDF	FAT&LC (CBA)	GCBCTC (PLA)
New Year's Day	X	X	X
Martin Luther King Jr. Day			X
President's Day	X	X	
Good Friday	X	X	
Memorial Day	X	X	X
Independence Day/July 4th	X	X	X
Labor Day	X	X	X
Veteran's Day	X	X	
Thanksgiving	X	X	X
Day after Thanksgiving	X	X	X
December 24th	X	X	
Christmas Day	X	X	X

#### H.11.2

The FDF staff observes different holidays than those observed by construction labor. When requested by the FDF Technical Representative, the Contractor shall be prepared to provide projections of administration support needed during the staff holidays.

#### H.11.3

The Contractor shall notify and receive approval from the FDF Contract Administrator 48 hours in advance when work is planned on Union holidays.

### H.12 Security Requirements

#### H.12.1

Employees of the Contractor and subcontractor, who are not citizens of the United States of America, shall require additional access forms for admission to the site. Processing time depends on the country of citizenship and can be a lengthy process. Cost and time for delays caused by processing approval for access shall be the Contractor's responsibility. The Contractor shall ascertain citizenship status of all employees who will work at the FEMP.

#### H.12.2

The Contractor shall submit an Access Request Form (Attachment J.4.23) for processing by FDF no later than 48 hours prior to bringing personnel on-site.

#### H.12.3 Identification Badges

On the first day of work, all Contractor personnel must report to FDF Security (Trailer 124) for badge processing.

##### H.12.3.1

Security badges (credit card type) are property of the U. S. Government and must be worn at all times. The Contractor shall immediately report lost badges.

##### H.12.3.2

Upon termination of employment, or when work under this contract is complete, authorization for admittance of the involved personnel to the FEMP site shall be canceled and their picture badges shall be returned to FDF Security. The return of badges shall be

the Contractor's responsibility. Final payment on the contract may be withheld until badges are returned or until satisfactory evidence is presented that a reasonable effort has been made to recover unaccounted badges (Section H.22).

#### H.12.3.3

Contractor employees who will require entrance to the FEMP for less than twenty-one working days will be issued a temporary Contractor's badge. These badges must be returned to FDF Security at the end of each day.

#### H.12.4

Failure to comply with these requirements could cause delay to personnel in gaining entrance to FEMP. FDF will not be responsible for cost due to Contractor-caused delays.

### H.13 Errors, Discrepancies, and/or Omissions

#### H.13.1

Document Review: Prior to execution of the work, the Contractor shall review all contract documents and shall immediately report all errors, discrepancies, and/or omissions discovered to FDF in writing, with one copy of the conflicting documents marked in red, clearly indicating the discrepancy. FDF will promptly make a determination in writing, of the disposition to be made thereof. If the Contractor uses the "Order of Precedence" clause to resolve any error, discrepancy, and/or omission, the notification requirements of this clause remain in effect and the Contractor shall state how the conflict has been resolved.

#### H.13.2

Omissions: Omissions from the SOW and/or attachments or the misdescription of details of work that are manifestly necessary to carry out the intent of the SOW or attachments, of which are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work, but they shall be performed as if fully and correctly set forth and described in the SOW and/or attachments.

### H.14 Project Meetings

#### H.14.1

Prior to mobilization, the Contractor shall participate in a maximum of five project alignment meetings, as identified in Section C.3.2.1.1.2 of the SOW.

#### H.14.2

FDF will hold weekly job-site, project meetings, either at FDF for on-site treatment or at an off-site facility, to ensure orderly and expeditious completion of the work and to provide coordination and communications between all parties involved. Such meetings will be chaired by FDF and include the Contractor's Project Manager and, when required, responsible representatives of subcontractors, and vendors or suppliers. At these meetings, schedules and progress shall be reviewed, work activities and administrative procedures coordinated, problem areas identified and corrective actions initiated, pending changes discussed, and safety activities reported. Any other pertinent or timely subjects should be included on the meeting agenda. Minutes of each meeting shall be promptly issued by FDF to all attendees.

#### H.14.3

The Contractor shall plan, prepare for, and participate in formal meetings and presentations with the U.S. DOE, U.S. EPA, OEPA, or members of the public as part of the CERCLA public involvement process. Contractor responsibilities shall include: participation in the preparation of outlines and discussion topics; overhead view-graphs, slides, and other presentation materials; participation in presentation dry-runs with FDF; revision of presentation materials in accordance with FDF comments; attendance at and possible participation in meetings; and addressing questions identified during the meetings. The Contractor shall plan for one such meeting per quarter for the entirety of this contract, with such meetings occurring within the general vicinity (within approximately 20 miles) of the FEMP and lasting approximately three hours per occurrence. These meetings will be held within approximately twenty (20) miles of the FEMP site regardless of whether the waste treatment is on-site or off-site.

### H.15 Modification Proposals Price Breakdown

#### H.15.1

The Contractor, shall furnish a price breakdown, itemized as required by the FDF Contract Administrator for any proposed contract modifications. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, contract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added, or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. If the proposal includes a time extension, a justification shall be furnished. When requested by FDF, the Contractor shall supply a critical path network schedule showing the effect of the proposed modification on the schedule. The proposal, together with the price breakdown

and time extension justification, shall be furnished by the date specified by the FDF Contract Administrator.

#### H.15.2

Contractor-owned remediation equipment shall be priced according to the latest issue of the Corp of Engineers Ownership and Operating Expenses Schedule.

#### H.16 Key Personnel

##### H.16.1

The following Contractor positions are key to the performance of this contract:

Project Manager	Lead Operations Supervisor
Construction Manager	Health and Safety Representative (Construction & Operational)
Operations Manager	Quality Assurance Representative (Program and Field QC)
Lead Project Engineer	Radiological Controls Manager
Project Controls Manager	Contract Manager

The Project Manager shall provide oversight of project activities and shall not be involved in performing or supervising operations activities or construction.

##### H.16.2

The Contractor shall provide the FDF Contract Administrator, for each key position listed in Section H.16.1 above, a one or two page resume concisely identifying the requested information.

The following format shall be used to present resume information:

- Name;
- Company affiliation and current position;

- Total number of years experience with this firm and total number of years of relevant experience in radiological and environmental remediation work;
- Education; degree(s), date(s), school(s); and
- Professional registrations.

Specific experience applicable to this project, including:

- Position and roles on each specific project;
- Time of performance on each specific project;
- Roles, responsibilities, and accomplishments; and
- Summary of DOE experience and accomplishments.

The contractor shall identify those projects described in Section VI below that this individual worked on and the individual's specific role on that project. FDF may use past performance obtained from sources other than that provided by the contractor and such information obtained may be used for its evaluation.

#### H.16.3

The key personnel positions listed in Section H.16.1 are considered to be essential to the work being performed under this contract. Prior to diverting to other positions or substituting any of the individuals filling these key personnel positions, the Contractor shall notify the FDF Contract Administrator at least 30 calendar days in advance and shall provide the name and a resume of the proposed substitution in sufficient detail to permit evaluation by FDF of the impact of the change on the project. No diversion or substitution shall be made by the Contractor without the written consent of FDF, provided that the FDF may confirm in writing such diversion or substitution and such confirmation shall constitute the consent of FDF required by this clause. This clause may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

### H.17 Tie-ins and Interruptions of Existing Services and Utilities

#### H.17.1

Impairments to critical fire protection systems shall normally be corrected within eight hours. Specific advance approval is required where continuous effort will not be provided to reactivate the system.



#### H.17.2

The locations of existing underground services and utilities as indicated on the drawings are approximate. The Contractor shall verify the exact location of utilities and utility tie-ins in the field.

#### H.17.3

No work or tie-ins shall be scheduled before all materials and/or equipment required to complete the work is on hand.

### H.18 Protection of Work and Property

#### H.18.1

Until final acceptance of the work under this contract, the Contractor shall continuously maintain adequate protection of its work (including work in progress) from loss or damage, in a manner satisfactory to FDF, for all work conducted at the FEMP. This includes FDF-furnished and Government-owned machinery, equipment, materials, and supplies being handled, whether in storage on-site or off-site, at the marshaling yards, under the care, custody, or control of the Contractor or any of its subcontractors, including property considered for progress payments, as well as other property of the Government.

#### H.18.2

The Contractor shall provide protection of its work from freezing, rain, and from other elements which would be harmful to it. The Contractor shall furnish heat or protective shelters or temporary buildings as required for the execution and protection of the work. Reference Attachment J.4.53 for portable structures and Section J.3.3.1.38 for temporary heat.

#### H.18.3

The Contractor shall not load or permit any part of any structure to be loaded with a weight that would endanger the safety of the structure. The Contractor shall provide and maintain adequate temporary supports, shores, and bracing to keep the work safe from failure or damage due to any loads that may be imposed on structures during construction.

#### H.18.4

When unforeseen existing utilities and/or other obstructions are encountered within the limits of the Contractor's work, the Contractor shall immediately notify the FDF Technical Representative before proceeding with the work.

#### H.19 Name Change

As of August 28, 1996, FERMCO's name was changed to FDF. All references herein to FERMCO are understood to refer to the same corporation whose name is now FDF. Similarly, any references to FERMCO in correspondence, memoranda or other writings arising under, relating to or otherwise required by any provision of this contract shall be understood to refer to FDF as one and the same corporation.

#### H.20 Minimization, Disposal, and Cleanup of Waste

##### H.20.1

Contractor cleanup shall consist of good housekeeping, including collection and disposal of all secondary wastes contained or generated during operation within the Contractor's work area at the FEMP.

##### H.20.2

The Contractor shall minimize the generation of waste as a result of its work and cleanup the work areas on a daily basis. At the close of each day's work, all small quantities of waste and debris shall be gathered and disposed of as designated in Section H.20.4 below. Waste and debris shall not be accumulated in large enough quantities to create an unsightly appearance, a safety or fire hazard, or to interfere in any way with free access to, and operation of existing facilities.

##### H.20.3

The Contractor shall in all cases minimize waste material brought on the site by unwrapping, decontainerizing or unpacking equipment, materials and tools prior to bringing them on the FEMP site or entering the controlled area. This shall be done in an effort to keep as much packing material off-site as possible.

##### H.20.4

Waste Disposal: Stabilized waste shall be managed in accordance with Section C.5.1.1.2, and environmental waste (including secondary or solid waste) in accordance with Section C.6.2.13.5 of the SOW. All material determined to be waste will be surveyed for radioactive contamination prior to removal from the site. Surveying will be performed by

FDF, at the FEMP Site only, to classify the waste into the following two categories for disposal purposes:

#### H.20.4.1

Uncontaminated Waste: Uncontaminated office waste and construction waste shall be removed off-site as Contractor's property in a safe, timely, acceptable manner, in accordance with the applicable laws and ordinances, and as prescribed by authorities having jurisdiction. No waste and/or debris shall be buried or otherwise allowed to remain on the FEMP. The Contractor shall be responsible for locating the disposal site, for trash and debris, and for hauling and disposal costs.

#### H.20.4.2

Contaminated Waste: Specific directions for the packaging, transportation, and disposal of contaminated waste resulting from the Contractor's activities are provided in Section C.6.2.10 (On-site) and C.9.3.2 (Off-site) of the Statement of Work, and Section H.60, Disposition of Contractor-Provided Equipment and Tools That Have Become Contaminated.

#### H.20.5

Any material or equipment furnished by the Contractor for the execution of the specified work and later determined to be in excess of the Contractor's requirements due to design or scope changes shall only be disposed of by the Contractor with written permission from FDF.

#### H.20.6

The Contractor shall notify FDF 24 hours prior to the proposed time of removal of equipment and/or excess material used in the execution of the work under this contract. FDF will arrange to have this equipment and/or excess material monitored for contamination per, Section J.3.4.5.1, Instruction for Surveys.

### H.21 Preservation of Antiquities, Wildlife, and Land Areas

#### H.21.1

Federal law provides for the protection of antiquities located on land owned or controlled by the Government. Antiquities include Indian graves or campsites, relics, and artifacts. The Contractor shall control the movements of its personnel and its subcontractor personnel at the job-site to ensure that any existing antiquities discovered thereon will not be disturbed or destroyed by such personnel. The Contractor shall report the existence of

any antiquities discovered. The Contractor shall also preserve all vegetation except where such vegetation must be removed for survey or construction purposes. Further, all wildlife shall be protected from destruction or injury due to the Contractor's operations.

#### H.21.2

Except as required or specifically provided for in the drawings, specifications or other provisions of this contract, the Contractor shall not perform any excavations, earth borrow, preparation of borrow areas, or otherwise disturb the surface soils within the FEMP without the prior approval of FDF.

#### H.22 Project Closeout/Contractor Termination Checklist

##### H.22.1

Prior to leaving the FEMP due to termination or transfer, each Contractor or subcontractor employee shall complete a Contractor Termination Checklist, Attachment J.4.73.

##### H.22.2

Prior to final payment, the Contractor shall:

###### H.22.2.1

Comply with all requirements of Section C.7;

###### H.22.2.2

Satisfactorily furnish all Contractor data;

###### H.22.2.3

Complete all commercial requirements; and

###### H.22.2.4

Assure that all Contractor and subcontractor employees meet the requirements of Section H.22.1 above.

##### H.22.3

When Contractor or subcontractor employees cease work on one contract and start work on another contract at the FEMP without changing employers, the Contractor shall notify the FDF Technical Representative in writing. Exit processing per the requirements of Section H.22.1, will not be required.

#### H.22.4

When a Contractor or subcontractor employee changes employers, but remains on the FEMP site, the Contractor shall have the employee processed according to Section H.22.1.

### H.23 Federal Acquisition Regulations (FAR) 52.229-3 Federal, State, and Local Taxes (JAN 1991)

#### H.23.1 Definitions

##### H.23.1.1

"Contract date," as used in this solicitation, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

##### H.23.1.2

"All applicable federal, state, and local taxes and duties," as used in this section, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

##### H.23.1.3

"After-imposed federal tax," as used in this section, means any new or increased federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

##### H.23.1.4

"After-relieved federal tax," as used in this section, means any amount of federal excise tax or duty, except social security or other employment taxes, that would otherwise have

been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

**H.23.2**

The contract price includes all applicable federal, state, and local taxes and duties.

**H.23.3**

The contract price shall be increased by the amount of any after-imposed federal tax, provided the Contractor warrants in writing that no amount for such newly imposed federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

**H.23.4**

The contract price shall be decreased by the amount of any after-relieved federal tax.

**H.23.5**

The contract price shall be decreased by the amount of any federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of FDF.

**H.23.6**

No adjustment shall be made in the contract price under this section unless the amount of the adjustment exceeds \$250.

**H.23.7**

The Contractor shall promptly notify FDF of all matters relating to any federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as FDF directs.

**H.23.8**

FDF shall, without liability, furnish evidence appropriate to establish exemption from any federal, state, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

## H.24 General Site Rules

### H.24.1

Signs: FDF will approve the size, number, and locations of all Contractor signs.

### H.24.2

Photographs: No photographs of the project, or any part of it, will be allowed without the express written consent of FDF. No cameras or video recorders shall be allowed on-site without prior authorization from FDF.

### H.24.3

Confidentiality: Publications, broadcasts or advertisements in any media concerning the subject matter of this contract shall not, at any time, be made by or on behalf of the Contractor, or its subcontractors (including vendors) unless prior written authorization is obtained from FDF.

## H.25 Codes and Standards

Where reference is made in this solicitation to a nationally-accepted code or standard, the revision in effect on the date of the solicitation shall apply unless otherwise noted.

## H.26 Limitations on Overtime at the FEMP

In the event that substantial amounts of overtime must be used, the following requirements shall apply:

### H.26.1

A person shall not be permitted to work more than 16 consecutive hours, excluding one hour shift turnover time;

H.26.2

A person shall not be permitted to work more than 24 hours in any 48-hour period, excluding one hour shift turnover time;

H.26.3

A person shall not be permitted to work more than 72 hours in any seven day period, excluding one hour shift turnover time;

H.26.4

A person shall not be permitted to work more than 14 consecutive days without having two consecutive days off;

H.26.5

Except during extended shutdown periods, brief pre- or post-shift training sessions, or weather-related occurrences, the use of overtime shall be considered on an individual basis and not for the entire shift crew; and

H.26.6

If a person is required to work in excess of 12 continuous hours, his or her duties shall be carefully selected. It is preferable that this person not be assigned any task that could possibly endanger the safe operation of the facility.

H.27 Notification of Fuel Storage Tanks

The Contractor shall notify the FDF Technical Representative at least two work days prior to bringing fuel storage tanks on-site. The notification shall include:

H.27.1

Proposed location;

H.27.2

Type fuel to be stored;



**H.27.3**

Tank capacity;

**H.27.4**

Construction material of secondary containment surrounding the tank; and

**H.27.5**

Capacity of the secondary containment.

**H.28        Suspect/Counterfeit Parts**

**Fastener Quality Act of 1990**

**H.28.1**

The Fastener Quality Act of 1990 is applicable to all work performed under this contract. Counterfeit or suspect fasteners shall not be provided or incorporated as part of this contract. The Fastener Quality Act of 1990 is implemented under DOE Order 440.1. The Contractor shall provide written certification of compliance with this requirement and shall comply with all record keeping laws of the Act. Written certification of compliance shall be required upon completion of the project and shall be submitted to FDF in accordance with Figure C.4-1, Contractor Submittal Register, herein.

**H.28.2**

The Contractor shall ensure that counterfeit/suspect fasteners are not used in construction or operational equipment used by the Contractor in the performance of the contract.

**H.28.3        Refurbished Molded-Case Circuit Breakers**

Refurbished molded-case circuit breakers shall not be accepted for use in the performance of this contract and will not be accepted at the FEMP site. Only molded-case circuit breakers meeting the standards of, and approved by, the UL shall be used.

**H.28.4**

The Environmental, Safety and Health Bulletin, DOE/EH-0266, Issue No. 92-4, dated August 1992 DOE Quality Alert (6 pages), included in Attachment J.4.21, provides information regarding the above.

#### H.28.5

Suspect/Counterfeit Parts, Figure 1 (1 page) to the DOE Bulletin DOE/EH-0266 is provided for the Contractor's use in identifying suspect/counterfeit parts.

#### H.29 Environmental Protection

##### H.29.1

Pollution of Waterways: The Contractor's remediation activities shall be performed by methods that prevent entrance and accidental spillage of solid or liquid matter, contaminants, debris and other objectionable pollutants and wastes into streams, watercourses, flowing or dry, and underground water sources. Such pollutants and wastes will include, but will not be restricted to refuse, earth products, garbage, cement, concrete, sewage effluent, industrial waste, radioactive substances, hazardous chemicals, oil and other petroleum products, aggregate processing tailings, and minerals salts. Pollutants and wastes shall be disposed of in accordance with applicable permit provisions and in a manner acceptable to and approved by FDF.

##### H.29.2

Storage and Disposal of Petroleum Products:

##### H.29.2.1

Petroleum products covered by Section H.27.2 include gasoline, diesel fuel, lubricants, heating oils, and refined and used oil. Throughout the duration of this project, all petroleum products shall be stored in such a way as to prevent contamination of all ground and surface waters.

##### H.29.2.2

Storage facilities shall conform to the requirements of OSHA 29 CFR Part 1910.106 Subpart H and NFPA 30.

#### H.30 Wages - Davis Bacon and Project Labor Agreement

The following section applies to the extent any laborers or mechanics have been determined to be subject to the provisions of the Davis-Bacon Act.

Reference the PLA between FDF and the GCBCTC dated March 30, 1993, Rev. 0 as modified on 10/1/95, included as Attachment J.4.8 of this contract.

#### H.30.1

This PLA is applicable to all Contractors, at any tier, who perform work on the site.

#### H.30.2

The successful Contractor shall become signatory to the PLA by executing the Letter of Assent (Attachment J.4.13) prior to commencing work on-site.

#### H.30.3

Wage and Fringe Benefits Determination (applicable to on-site work only). The craft designations, base hourly wage rate, and applicable fringe benefit package as specified in the FDF PLA, Appendix A Wage Schedule (and any future revisions thereto) shall be the minimum rates paid to laborer and mechanic classifications designated therein. In the event the Davis-Bacon wage rates and fringe benefits, applicable to this contract, exceed the PLA, Appendix A wage rates and fringe benefits, the Davis-Bacon wage rates and fringe benefits shall apply.

#### H.30.4

The FDF PLA hourly wage rate and fringe benefit package will be adjusted on October 1 of every year. Accordingly, the Contractor shall ascertain what hourly wage rates and fringe benefits shall be paid under the PLA for the duration of this contract since no adjustments shall be made to the contract fixed price for any increase or decrease in the hourly wage rates and fringe benefits for the duration of the contract.

#### H.31 Service Contract Act of 1965, as Amended (MAY 1989)

FDF General Provision Clause B.2, Services Contract Act of 1965, as amended (May 1989), is applicable to all work that is not classified as Davis-Bacon Act type work. The applicable Service Contract Act Wage Determination is listed in Attachment J.4.9 and will be incorporated into any resultant contract.

#### H.32 Requirements Regarding Payment of Wages and Fringe Benefits

##### H.32.1

Minimum Wages and Benefits Required By the Davis-Bacon Act:

##### H.32.1.1

The Davis-Bacon Act (Section H.30). The applicable Davis-Bacon Act Wage/Fringe Benefits Determination for Hamilton County, Ohio, is listed in Attachment J.4.11 and will be incorporated into any resultant contract.

#### H.32.1.2

Wages and Fringe Benefits Required by the PLA. The Contractor shall pay the greater of the hourly wage rates and fringe benefits for labor classified as construction type work as required by either of the following:

##### H.32.1.2.1

Davis-Bacon Wage Determination of the Secretary of Labor incorporated into this contract;  
or

##### H.32.1.2.2

The PLA, whichever is applicable.

#### H.32.2

Minimum Wages and Benefits Required by the Services Contract Act:

##### H.32.2.1

The applicable Services Contract Act (Section H.31) Wage/Fringe Determination for this contract is listed in Attachment J.4.9.

#### H.32.3

The Contractor shall post, on the job-site, a listing of the wage rates applicable and being paid for each craft and classification. Such posting shall be prominently displayed for viewing by employees and shall be revised or updated as applicable.

#### H.32.4

The Contractor, and all of its designated subcontractors shall execute, the Letter of Assent to the PLA and comply with all terms and conditions thereof, including Appendix A, Wage Schedules, and any subsequent revisions. No other labor agreements (i.e., local, regional, or national in scope) shall be recognized for work under this contract.

#### H.32.5

The FDF PLA hourly wage rate and fringe benefit package will be adjusted on October 1st of every year. Accordingly, it is the subcontractor's responsibility to ascertain what hourly wage rates and fringe benefits will be paid under the PLA for the duration of this subcontract since no adjustments will be made to the subcontract fixed price for any increase or decrease in the hourly wage rates and fringe benefits for the duration of the subcontract.

#### H.32.6

FDF reserves exclusive right to clarifications or interpretations of PLA for Contractors.

#### H.32.7

The Contractor shall participate in the Labor Management Cooperative Committee (LMCC) and coordinate all industrial relations issues through the FDF IR Department.

#### H.32.8

Breach of the PLA constitutes a material breach of this contract.

### H.33 Contracting Requirements

The Contractor shall obtain approval of the FDF Contract Administrator prior to contracting any on-site training and work under this contract and shall submit a final list of all subcontractors who will work on this contract and have been approved by FDF.

### H.34 FAR 52.236-10 Operations and Storage Areas (APR 1984)

#### H.34.1

The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by FDF. The Contractor shall hold and save Fluor Daniel, the Government and FDF, their officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

#### H.34.2

Temporary buildings (e.g., storage sheds, shops, offices) and utilities shall only be erected by the Contractor with the approval of FDF and shall be built with labor and materials furnished by the Contractor without expense to FDF. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the FDF Technical Representative, the buildings and utilities may be abandoned and need not be removed.

#### H.34.3

The Contractor shall, under regulations prescribed by FDF, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by FDF. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

#### H.35 Personnel Protection Equipment

The Contractor shall provide PPE in accordance with Sections J.3.3.1.20 and J.3.3.1.21.

#### H.36 FAR 52.236-12 Cleaning Up (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of FDF or the DOE. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to FDF.

#### H.37 FAR 52.236-7 Permits and Responsibilities (NOV 1991)

The Contractor shall, without additional expense to FDF, obtain any necessary licenses and permits, and shall comply with any federal, state, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

#### H.38 FAR 52.236-2 Differing Site Conditions (APR 1984)

**H.38.1**

The Contractor shall promptly, and before the conditions are disturbed, give a written notice to FDF of: (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

**H.38.2**

FDF will investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this section and the contract modified in writing accordingly.

**H.38.3**

No request by the Contractor for an equitable adjustment to the contract under this section shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in Section H.38.1 above for giving written notice may be extended by FDF.

**H.38.4**

No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

**H.39        FAR 52.236-6 Superintendence by the Contractor (APR 1984)**

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to FDF and has authority to act for the Contractor.

**H.40        FAR 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (APR 1984)**

**H.40.1**

The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by FDF.

#### H.40.2

The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, FDF may have the necessary work performed and charge the cost to the Contractor.

#### H.41 FAR 52.222-6 Davis-Bacon Act (FEB 1988)

The following section applies to the extent any laborers have been determined to be subject to the provisions of the Davis-Bacon Act.

##### H.41.1

All laborers and mechanics employed or working upon the site shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor (Attachment J.4.11) and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of the Davis-Bacon Act. Also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the



appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the Davis-Bacon Act clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this the Davis-Bacon Act) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractor(s) at the work site in a prominent and accessible place where it can be easily seen by the workers.

#### H.41.2

FDF will require that any class of laborers or mechanics that is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. FDF will approve an additional classification and wage rate and fringe benefits only when all the following criteria have been met:

##### H.41.2.1

The work to be performed by the classification requested is not performed by a classification in the wage determination.

##### H.41.2.2

The classification is used in the area by the construction industry.

##### H.41.2.3

The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

#### H.41.3

If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and FDF agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken will be sent by FDF to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove

every additional classification action within 30 days of receipt and so advise FDF or will notify FDF within the 30-day period that additional time is necessary.

#### H.41.4

In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and FDF do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), FDF shall refer the questions, including the views of all interested parties and the recommendation of FDF, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise FDF or will notify FDF within the 30-day period that additional time is necessary.

#### H.41.5

The wage rate (including fringe benefits, where appropriate) determined pursuant to Sections H.41.3 and H.41.4 shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

#### H.41.6

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

#### H.41.7

If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside, in a separate account, assets to meet obligations under the plan or program.

#### H.42 FAR 52.222-10 Compliance with Copeland Act Requirements (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

**H.43 FAR 52.222-11 Contracts (Labor Standards) (FEB 1988)**

The following section applies to the extent any laborers have been determined to be subject to the provisions of the Davis-Bacon Act.

**H.43.1**

The Contractor shall insert in any contracts the sections entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act -- Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Contracts (Labor Standards), Contract Termination - Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility, and such other sections as FDF may, by appropriate instructions, require, and also a section requiring the Contractor to include these sections in any subcontracts. The Contractor shall be responsible for compliance by any subcontractor with all the contract sections cited in this paragraph.

**H.43.2**

**Statement and Acknowledgment Form:**

**H.43.2.1**

Within 14 days after award of the contract, the Contractor shall deliver to FDF a completed Statement and Acknowledgment Form (SF 1413), Attachment J.4.25, for each contract, including the Contractor's signed and dated acknowledgment that the clauses set forth in Section H.43.1 have been included in the contract.

**H.43.2.2**

Within 14 days after the award of any subsequently awarded contract, the Contractor shall deliver to FDF an updated completed SF 1413, Statement and Acknowledgment Form, for such additional contract.

**H.44 FAR 52.222-12 Contract Termination -- Debarment (FEB 1988)**

The following section applies to the extent any laborers have been determined to be subject to the provisions of the Davis-Bacon Act.

A breach of the contract sections entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act -- Overtime Compensation, Apprentices and Trainees, Payrolls and

Basic Records, Compliance with Copeland Act Requirements, Contracts (Labor Standards), Compliance With Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as provided in 29 CFR Part 5.12.

**H.45        FAR 52.222-13 Compliance with Davis-Bacon and Related Act Regulations (FEB 1988)**

The following section applies to the extent any laborers have been determined to be subject to the provisions of the Davis-Bacon Act.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.

**H.46        FAR 52.222-15 Certification of Eligibility (FEB 1988)**

The following section applies to the extent any laborers have been determined to be subject to the provisions of the Davis-Bacon Act.

**H.46.1**

By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR Part 5.12(a)(1).

**H.46.2**

No part of this contract shall be contracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR Part 5.12(a)(1).

**H.46.3**

The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 United States Code (USC) § 1001.

**H.47        FAR 52.222-7 Withholding of Funds (FEB 1988)**

The following section applies to the extent any laborers or mechanics have been determined to be subject to the provisions of the Davis-Bacon Act.

FDF shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other federal contract with the same Contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, FDF may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations cease.

#### H.48 FAR 52.246-12 Inspection of Construction (JUL 1986)

The following section applies to the extent any laborers have been determined to be subject to the provisions of the Davis-Bacon Act.

##### H.48.1

"Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

##### H.48.2

The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to FDF. All work shall be conducted under the general direction of FDF and is subject to FDF inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

##### H.48.3

FDF inspections and tests are for the sole benefit of FDF and do not:

##### H.48.3.1

Relieve the Contractor of responsibility for providing adequate quality control measures;

**H.48.3.2**

Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;

**H.48.3.3**

Constitute or imply acceptance; or

**H.48.3.4**

Affect the continuing rights of FDF after acceptance of the completed work.

**H.48.4**

The presence or absence of a FDF inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without FDF's written authorization.

**H.48.5**

The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by FDF. FDF may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary.

**H.48.6**

FDF will perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full-size, and performance tests shall be performed as described in this solicitation.

**H.48.7**

The Contractor shall, without charge, replace or correct work found by FDF not to conform to contract requirements, unless in the public interest FDF consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

**H.48.8**

If the Contractor does not promptly replace or correct rejected work, FDF may (1) by another contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

#### H.48.9

If, before acceptance of the entire work, FDF decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, FDF will make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

#### H.49 FAR 52.222-8 Payrolls and Basic Records (FEB 1988)

The following section applies to the extent any laborers have been determined to be subject to the provisions of the Davis-Bacon Act.

##### H.49.1

Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the section entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

#### H.49.2

The Contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls for construction personnel to FDF. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under Section H.49.1. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Contractor shall submit copies of payrolls by all construction Contractors. Each payroll submitted shall be accompanied by a Statement of Compliance, signed by the Contractor or its subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify:

##### H.49.2.1

That the payroll for the payroll period contains the information required to be maintained under Section H.49.1 and that such information is correct and complete;

##### H.49.2.2

That each construction laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and,

##### H.49.2.3

That each construction laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

#### H.49.3

The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the Statement of Compliance required by Section H.49.2 of this clause.

#### H.49.4



The falsification of any of the certifications in this section may subject the Contractor or Contractor(s) to civil or criminal prosecution under 18 USC § 1001 and 31 USC § 3729.

#### H.49.5

The Contractor and its subcontractors shall make the records required under Section H.49.1 available for inspection, copying, or transcription by the Government or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or construction Contractor shall permit the Government or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or Contractor(s) fails to submit required records or to make them available, FDF may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

#### H.50 FAR 52.222-9 Apprentices and Trainees (FEB 1988)

The following section applies to the extent any laborers have been determined to be subject to the provisions of the Davis-Bacon Act.

##### H.50.1

Apprentices: Apprentices shall be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a

Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor shall no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

#### H.50.2 Trainees

Trainees: Except as provided in 29 CFR Part 5.16, trainees shall not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor shall no longer be

permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

### H.50.3

**Equal Employment Opportunity:** The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

## H.51 Performance and Payment Bonds

This section outlines what type of bonds (performance and/or payment) are required and when the bonds are required to be submitted to FDF (Section F, Table F.3-1, Performance Schedule). Section I, General Provision A.44, Required Insurance (May 1994), covers insurance requirement on the FEMP site. Insurance is required at all times while the Contractor is performing work on the FEMP site. Costs for Performance and Payment Bonds for option items 002 through 009, where required, shall be included in those items, and will be incorporated in accordance with Table H.51-1, "Bonding Schedule", when and if those option items are exercised.

### H.51.1 Performance Bonds

The Contractor shall furnish a performance bond with good and sufficient surety or sureties acceptable to FDF in connection with the performance of the work under this contract per the schedule in Section H.51.5 below. The penal amount of performance bonds shall be 100% of the contract price, including all activities and costs for the following performance activities/durations:

#### H.51.1.1

Pre-mobilization, line item 001, Performance Bonds will not be required.

#### H.51.1.2

After receiving Authorization to Mobilize, all work attributable to option items 002, 003, and 004 (Pre-operational Phase), Section B, Table B.2-1, Pricing Schedule.

#### H.51.1.3

After receiving Authorization to Operate, all work attributable to option items 005 or 005A, 006 or 006A, and 007 or 007A (Operational Phase) Section B, Table B.2-1, Pricing Schedule.

#### H.51.1.4

After receiving approval to begin facility shutdown activities, all work attributable to option items 008 and 009 (Facility Shutdown Dismantlement Phase) Section B, Table B.2-1, Pricing Schedule.

#### H.51.2      Payment Bonds

The Contractor shall furnish a payment bond with good and sufficient surety or sureties acceptable to FDF in connection with the performance of the work under this contract per the schedule in Section 51.5 below. The penal amount of payment bonds shall be equal to the amount necessary to cover all activities and costs attributable to payment of all persons supplying labor (with the exception of FAT&LC labor--see Section H.58), materials, and equipment (to include any processing equipment and spare parts supplied by any Contractor or subcontractor) for the following performance activities/duration. This amount shall not be greater than \$2,500,000.

##### H.51.2.1

Pre-Mobilization, line item 001, Payment Bonds will not be required.

##### H.51.2.2

After receiving Authorization to Mobilize, all work attributable to option items 002, 003, and 004 (Pre-operational Phase), Section B, Table B.2-1, Pricing Schedule.

##### H.51.2.3

After receiving Authorization to Operate, all work attributable to option items 005 or 005A, 006 or 006A, and 007 or 007A (Operational Phase) Section B, Table B.2-1, Pricing Schedule.

##### H.51.2.4

After receiving approval to begin facility shutdown activities, all work attributable to option items 008 and 009 (Facility Shutdown Dismantlement Phase) Section B, Table B.2-1, Pricing Schedule.

#### H.51.3      Form and Number of Copies of Bonds

The performance and payment bonds shall be submitted in original only on the respective bond forms, and completed and executed in accordance with the instructions contained thereon.

#### H.51.4 Sureties

Corporate sureties must be listed in the current issue of the Department of Treasury Circulate 570 entitled Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsurance Companies.

#### H.51.5 Time for Submission of Bonds

Performance and payment bonds shall be submitted to the FDF Contract Administrator in accordance with the bonding schedule, Table H.51-1.

#### H.51.6 Additional Bond Security

The Contractor shall promptly furnish additional security required to protect FDF, and persons supplying labor or materials under this contract if:

##### H.51.6.1

Any surety upon any bond furnished with this contract becomes unacceptable to FDF;

##### H.51.6.2

Any surety fails to furnish reports on its financial condition as required by FDF; or

##### H.51.6.3

The contract price is increased so that the penal amount of any bond becomes inadequate in the opinion of FDF.

Table H.51-1 Bonding Schedule

Abbreviated Description	Line Items/ Option Items	Reference	Performance Bond	Payment Bond	Bond Due (Calendar Days)
Pre-mobilization Phase	001	H.51.1.1; H.51.2.1; Section C.3.2.1(On-site) and C.9.4 (Off-site)	NOT REQUIRED	NOT REQUIRED	NOT REQUIRED
Pre-operational Phase	002, 003, and 004,	H.51.1.2; H.51.2.2; Sections C.3.2.2.1; C.3.2.2.2; C.3.2.2.3; C.3.2.2.4; C.3.2.2.5; C.3.2.2.6 (On-site) and C.9.5 (Off-site)	Line Items 002,003, and 004	Line Items 002, 003, and 004	Ten (10) days after Authorization to Mobilize
Operational Phase	005, 005A 006, 006A and 007, 007A	H.51.1.3; H.51.2.3; Sections C.3.2.3; C.3.2.3.1; C.3.2.3.2; C.3.2.3.3; C.3.2.3.4; C.3.2.3.5; C.3.2.3.6 (On-site) and C.9.6 (Off-site)	Line Items 005 or 005A; 006 or 006A; 007 or 007A	Line Items 005 or 005A; 006 or 006A; 007 or 007A	Ten (10) days after Authorization to Operate
Facility Shutdown and Dismantlement Phase	008 and 009	H.51.1.4; H.51.2.4; Sections C.3.2.4; C.3.2.5 (On-site) and C.9.7; C.9.8 (Off-site)	Line Items 008 and 009	Line Items 008 (excluding Dismantlement) and 009	Ten (10) days after option exercise of Items 008 and 009

## H.52 Cost or Pricing Data

The following sections apply if the price of this contract exceeds \$500,000. Change all references from \$100,000 to \$500,000 within each section as applicable.

### H.52.1

Reference Section I, Clause E.2, entitled "FAR 52.215-22 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (JAN 1991)."

#### H.52.2

Reference Section I, Clause E.3, entitled "FAR 52.215-23 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA-MODIFICATIONS (DEC 1991)."

#### H.52.3

Reference Section I, Clause E.4, entitled "FAR 52.215-24 SUBCONTRACTOR COST OR PRICING DATA (DEC 1991)."

#### H.52.4

Reference Section I, Clause E.5, entitled "FAR 52.215-25 SUBCONTRACTOR COST OR PRICING DATA-MODIFICATIONS (DEC 1991)."

### H.53 Training Costs

#### H.53.1

There are three general categories of training under this contract: 1) Initial Site Access Training (Section J.3.3.3); 2) Continuing Site Access Training (Section J.3.3.3); and 3) Operations Training, per Contractor's requirements (e.g., equipment operation training).

#### H.53.2

FDF will provide site access training, in accordance with this contract, at no cost to the Contractor, for all FAT&LC personnel (except for those excess personnel costs identified under Section H.58, FAT&LC Labor Usage) assigned against this contract. The Contractor shall plan for labor costs for site access training using the 25 percent factor for absenteeism, sick time, holidays, vacations, and training discussed in Section C.8.3.6. The Contractor shall plan for labor costs for operations training in accordance with Section C.3.2.2.4.3.

#### H.53.3

The Contractor shall be responsible for training costs for its own personnel, plus any GCBCTC who shall perform work under this contract in accordance with Table H.53-1.

#### H.53.4

FDF will provide training facilities, instructors, and materials for initial and continuing site access training. The Contractor shall provide training facilities, instructors, and materials for all operations training. If the Contractor desires to use FDF training facilities for its operations training, the Contractor shall request permission from FDF Training (through the FDF Contract Administrator) at least 20 work days in advance of the desired training date, stating when (date, time, and duration) the training is desired and how many individuals are to be trained. FDF will notify the Contractor if the facilities are available within ten work days after receiving the Contractor's request for facility usage notice. FDF makes no promise of facility availability and the Contractor shall not be relieved from its responsibility to properly train its labor force as required under the provisions of this contract in the event FDF training facilities are unavailable.

#### H.53.5

Initial Operations Training (Section C.3.2.2.4.3) which is required prior to receiving Authorization to Operate (Section C.3.2.2.6), initial Site Access Training (Section C.3.2.1.1.3 and Section J.3.3.3), and costs for continued Operations Training and Site Access Training required after receiving Authorization to Operate shall be factored into option line items 005 through 009, Table B.2-1, Pricing Schedule.

Table H.53-1 Training Costs

	INITIAL SITE ACCESS TRAINING	CONTINUING SITE ACCESS TRAINING	OPERATIONS TRAINING
TRAINING COSTS	(Cost Responsibility)	(Cost Responsibility)	(Cost Responsibility)
Facility	FDF	FDF	See H.53.4
Instructor	FDF	FDF	Contractor
Training Materials	FDF	FDF	Contractor
FAT&LC Hours	Section H.53.2	Section H.53.2	Section H.53.2
GCBCTC Hours	Contractor	Contractor	Contractor
Contractor Employee Hours	Contractor	Contractor	Contractor

#### H.54 FAR 52.236-13 Accident Prevention and Alternate I (NOV 1991)

##### H.54.1



The Contractor shall provide and maintain work environments and procedures which will (1) safeguard the public, FDF and DOE personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities; (2) avoid interruptions of FDF or DOE operations and delays in project completion dates; and (3) control costs in the performance of this contract.

#### H.54.2

For the purposes of contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall:

##### H.54.2.1

Provide appropriate safety barricades, signs, and signal lights;

##### H.54.2.2

Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

##### H.54.2.3

Ensure that any additional measures FDF determines to be reasonably necessary for the purposes are taken.

#### H.54.3

Whenever FDF becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public, FDF, or DOE personnel, FDF will notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, FDF may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

#### H.54.4

The Contractor shall insert this section, including this Section H.54.4, with appropriate changes in the designation of the parties, in subcontracts.

**Alternate I (Nov 1991)**

If the contract will involve (a) work of a long duration or hazardous nature, or (b) performance on a Government facility that, on the advice of technical representatives, involves hazardous materials or operations that might endanger the safety of the public, FDF or Government personnel or property, add the following section H.54.5 to the basic clause:

**H.54.5**

Before commencing the work, the Contractor shall:

**H.54.5.1**

Submit a written Safety Basis Implementation Plan (Section J.3.2.3.2) for implementing this section. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

**H.54.5.2**

Meet with representatives of FDF to discuss and develop a mutual understanding relative to administration of the overall safety program.

**H.54.5.3**

Reference Sections J.3.1 through J.3.4 for FEMP safety requirements.

**H.55        Order of Precedence**

In place of the General Provisions article titled Order of Precedence, the following order of precedence shall apply. Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

First,    Any statutory requirement listed in this contract [e.g., H.47, FAR 52.222-7, Withholding of Funds (FEB 1988)]

Then,  
Section A, Solicitation, Offer and Award Form  
Section B, Supplies or Services and Prices/Costs  
Section D, Packaging and Marking  
Section E, Inspection and Acceptance  
Section F, Deliveries or Performance  
Section G, Contract Administration Data  
Section H, Special Contract Requirements

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**OF EQUAL  
PRECEDENCE**

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Then, Section I, FDF General Provisions

Then, Section C, Statement of Work

Then, Attachment J, List of Attachments (Except  
for Contractor's Technical Proposal to be  
incorporated into Attachment J upon contract  
award -- see below.)

Then, all other sections or documents.

Then, The Contractor's Technical Proposal dated \_\_\_\_  
TBD (as incorporated)

#### H.56 Exercise of Options

FDF may require continued performance of any of the option items at the price and within the limits specified herein. Pre-operational Phase option items 002, 003, and 004, and option items 008, Facility Shutdown and Dismantlement, and 009, Demobilization (Section B, Table B.2-1), may be exercised by a unilateral modification to this contract within sixty (60) days of the completion of Item 001, Pre-mobilization. Option item 005 or 005A, Operations, may be exercised within sixty (60) days of issuance of the Authorization to Operate. Option item 006 or 006A, if required, may be exercised prior to completion of Item 005 or 005A based on a determination of remaining quantity of Silo 3 material. Option item 007 or 007A may be exercised within sixty (60) days of completion of either Item 005 or 005A and Item 006 or 006A, if required.

#### H.57 Contractor Personnel

##### H.57.1

The Contractor, in performance of this contract, shall select personnel who are well qualified to perform the required services, for supervising its personnel, and for keeping them informed of all improvements, changes, and methods of operation.

#### H.57.2

The FDF Contract Administrator may direct the Contractor to remove, and the Contractor, if so directed, shall remove any employee from assignment to performance of any services under this contract for reasons of security or misconduct.

#### H.57.3

When the reason for the removal request is due solely to security or misconduct on the part of the employee, replacement shall be at the Contractor's expense and not chargeable to FDF.

### H.58 Back Charges

#### H.58.1 FAT&LC Labor Usage

##### H.58.1.1

As specified herein, certain of the work required to be performed under this contract is within the jurisdiction of the FAT&LC. Under the terms of FDF's CBA with FAT&LC (Attachment J.4.7), work under the jurisdiction of FAT&LC is to be performed by FAT&LC workers employed by FDF. FDF will provide for the Contractor's use of the workforce required to perform that portion of the work described in the Statement of Work which is under the jurisdiction of the FAT&LC. The Contractor shall be responsible for the integration of this FDF-supplied workforce into its plan for performance of this contract, and shall also provide all other labor, including supervision and administration, required for the performance of this contract. FDF will provide the Contractor FAT&LC labor in accordance with the Contractor's Workforce Utilization Plan (WUP) incorporated into this contract under Sections C.8 and C.9.9.

##### H.58.1.2

FDF has negotiated a PLA with the GCBCTC, Attachment J.4.8. To the extent that performance of this contract involves work subject to the jurisdiction of the GCBCTC, the

Contractor shall hire GCBCTC personnel to perform this work and shall comply with the terms of FDF's PLA with respect to these employees.

#### H.58.1.3

If, during the performance of this contract, the Contractor's actual FAT&LC labor requirements are greater than the amount in the Contractor's WUP, then the Contractor shall be back charged for all additional FAT&LC labor requirements at a rate reflecting the actual cost to FDF (including benefits and training). FDF will provide written notice to the Contractor of the amount of any back charge applicable under this section. The amount of any such back charge will be deducted from the next payment otherwise due to the Contractor. If the next payment otherwise due to the Contractor is insufficient to cover the back charge, FDF will provide written notice to the Contractor of the balance due. The Contractor shall make payment to FDF of the balance due within 15 calendar days from the date the written notice from FDF is received.

#### H.58.2 Transportation and Disposal Back Charges

##### H.58.2.1

The contractually agreed to disposal volume of treated Silo 3 waste is hereby established at \_\_\_\_\_ cubic feet, based on 3,925 tons of untreated Silo 3 material.

##### H.58.2.2

The \_\_\_\_\_ cubic feet disposal volume will be utilized by FDF to establish the total project price. The Contractor's Allowable Disposal Volume will be based on the Contractor's proposed disposal volume, as negotiated (see below). If during the performance of this contract, the actual disposal volume exceeds the Allowable Disposal Volume, adjusted for the actual amount of untreated Silo 3 material processed, then the Contractor shall be back charged in accordance with the following formula:

Back charge = (Actual disposal volume - Allowable Disposal Volume) x \$10.00/cubic foot

where the Allowable Disposal Volume is calculated by:

Allowable Disposal Volume = 
$$\frac{\text{Proposed disposal volume} \times \text{Actual tons treated}}{3,925 \text{ tons}}$$

##### H.58.2.3

FDF will provide written notice to the Contractor of the amount of any back charge applicable under this section. The amount of any such back charge will be deducted from the next payment otherwise due to the Contractor. If the next payment otherwise due to the Contractor is insufficient to cover the back charge, FDF will provide written notice to the Contractor of the balance due. The Contractor shall make payment to FDF of the balance due within 15 calendar days from the date the written notice from FDF is received.

#### H.59 Reserved

#### H.60 Disposition of Contractor-Provided Equipment, Tools, and Temporary Facilities That Have Become Contaminated - APPLIES TO ON-SITE ACTIVITIES ONLY

##### H.60.1

The Contractor shall use its own equipment in performing the required work under this contract. The Contractor shall provide FDF with a list of all tools, vehicles, equipment, material, and temporary facilities (Reference C.3.2.5.2 for temporary facilities) used on another radiologically-controlled site 10 days prior to bringing the items on site. Tools, vehicles, equipment, material, and temporary facilities will be inspected for radioactive contamination by FDF personnel prior to initial entry into the radiologically-controlled area. All tools, vehicles, equipment, material, and temporary facilities will be surveyed for contamination by FDF prior to removal from the controlled area.

The Contractor shall plan and coordinate work to minimize the potential for contamination on tools, equipment, vehicles, and temporary facilities. Preventative measures shall be taken where practical including, but not limited to, minimizing the amount of material entering radiologically-controlled areas to that required for performance of work, locating equipment in areas with the least potential for contamination, and implementing the use of protective coverings or wrappings.

##### H.60.2

Should the Contractor's equipment, tools, or temporary facilities become contaminated, they shall be decontaminated. The Contractor shall perform decontamination of its equipment, tools, or temporary facilities to the extent practical (e.g., wipe down, scrape, or wash) at its expense, before removal from the area.

##### H.60.3

If decontamination proves impracticable or impossible, the tools, material, equipment, or temporary facilities in question shall:

- Be removed by the Contractor under its NRC license, if applicable, in accordance with Section 7.2.3.7.4; or
- Be prepared for disposal at the Contractor's expense, in accordance with Section 7.2.

It shall be assumed that small tools used for decontamination work, HEPA vacuum cleaners, respirators, wooden scaffold, wooden ladders and miscellaneous fibrous materials cannot be decontaminated and must be left on-site after contract completion at no cost to FDF.

#### H.60.4

FDF shall not be responsible for tools, equipment, and temporary facilities, as identified in H.60, at an Off-site facility.

#### H.61 Integrity of Unit Prices

Section I, General Provision D.11 entitled "FAR 52.215-26 INTEGRITY OF UNIT PRICES AND ALTERNATE I (APR 1991)" shall apply to services as well as supplies.

#### H.62 Indemnification for Nuclear Safety Violations

##### H.62.1

**Applicability:** The provisions of this section shall be applicable if the Contractor's product or service is subject to DOE Nuclear Safety Requirements or could have any effect on radiological safety.

##### H.62.2

The Contractor assumes full responsibility and shall indemnify, hold harmless, and defend FDF, its directors, officers and employees from any civil or criminal liability under Section 234A [42 USC § 2282(a)] or 2239(c), 42 USC § 2273(c)] of the AEA of 1954, as amended, or the implementing regulations, arising out of the activities of the Contractor, its subcontractors, suppliers, agents, employees, and their officers, or directors. The Contractor's obligation to indemnify and hold harmless shall expressly include attorneys' fees and other reasonable costs of defending any action or proceeding instituted under Section 234A or 223C or the implementing regulations.

## H.63 Radiological Protection Program Compliance

### H.63.1

**Applicability:** The provisions of this section apply to any activity carried out pursuant to this contract by the Contractor, its subcontractors, suppliers, and employees that has the potential to result in the exposure of an individual to radiation or radioactive material. The term "individuals" as used in this section includes, without limitation, general employees, radiological workers, embryo/fetus of a declared pregnant worker, minors, and members of the public. The requirements of this clause do not apply to activities that are regulated through a license by the NRC or a state under an Agreement with the NRC (an Agreement State), including activities certified by the NRC under Section 1701 [42 USC § 2297(f)] of the AEA of 1954, as amended. Other specific applicability exclusions are identified in 10 CFR Part 835.1(b).

### H.63.2

The Contractor shall: (1) comply with all applicable requirements of 10 CFR Part 835, Occupational Radiation Protection and FDF's Radiological Protection Program as set forth in FDF's Implementation Plan and Radiological Protection Program for 10 CFR Part 835, current edition, as revised from time to time (herein after referred to as the RPP), and (2) implement, document, and maintain such programs (e.g., administrative controls, procedures, and technical work documents) as necessary to ensure compliance with FDF's RPP. The Contractor's programs and associated documents are subject to review at all times by FDF.

### H.63.3

The Contractor shall include the provisions of this section, including this paragraph (c), in all subcontracts for any activity that has the potential to result in the exposure of an individual to radiation or radioactive material.

## H.64 Enforceable U.S. EPA Milestones

### H.64.1

Within 60 calendar days of receipt of U.S. EPA approval of the ESD for the Silo 3 Project, a revised OU4 RD/RA Work Plan for the Silo 3 Project will be developed by DOE-FEMP/FDF, and submitted to the U.S. EPA and OEPA by DOE for review and approval.



In accordance with the ACA (between DOE and U.S. EPA) and with other agreements with the EPAs, the RD/RA Work Plan will discuss the EPA's involvement in the Silo 3 Project RD/RA process and will propose the Silo 3 remediation activities to be established as enforceable U.S. EPA milestones.

#### H.64.2

The Contractor acknowledges the enforceable milestones set by the U.S. EPA, as specified in Section F. "Claim" as used in General Provision A.32, Section I, "Indemnity," includes the assessment of any penalties by the U.S. EPA against the DOE or FDF for failure to meet any of the enforceable milestones.

#### H.65 Reserved

#### H.66 Displaced Employee Hiring Preference (JUNE 1997)

##### H.66.1 Definition

Eligible employee means a current or former employee of a Contractor or subcontractor employed at the Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who has also met the eligibility criteria contained in the DOE guidance for Contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the DOE or one of its Contractors with respect to work under its contract with the DOE at the time the particular position is available.

##### H.66.2

Consistent with Department of Energy guidance for Contractor work force restructuring, as may be amended or supplemented from time to time, the Contractor agrees that it will provide a preference in hiring to be an eligible employee to the extent practicable for work performed under this contract.

#### H.67 Quality Assurance (QA) Rule Program Compliance

##### H.67.1

Applicability: The provisions of this clause apply to Safe Shutdown Operations (SSO) and Material Handling and Storage (MH&S) activities carried out pursuant to this contract by the Contractor, subcontractors, suppliers, and employees at existing FEMP non-reactor nuclear facility rated as Nuclear Hazard Category (HC) 1,2, or 3 (documented in

accordance with a Safety Analysis Report/Technical Safety Requirement (SAR/TSR) Implementation Plan). The Contractor is also required to implement this clause for project-specific nuclear activities (other than the SSO and MH&S activities) which occur in a new facility or activity rated HC 1,2, or 3 in an approved SAR associated with this contract. Additionally, the Contractor shall apply this clause to any facility or activity if requested by FDF and/or DOE. Non-reactor nuclear facility means those activities or operations that involve radioactive and/or fissionable materials in such form and quantity that a nuclear hazard potentially exists to the employees or the general public (See 10 CFR Part 830.3). The hazard classification and safety assessment documentation associated with this contract shall be reviewed to determine applicability of this clause. If noncompliance or deficiency occurs in the facility or activity the Seller is working in, and lack of corrective action by the Contractor causes violations of Nuclear Safety Requirements in higher hazard nuclear facilities, then the Contractor may be subject to enforcement penalties under 10 CFR Part 820 and/or other provisions of this contract. The requirements of this clause do not apply to activities that are regulated through a license by the NRC or a state under an Agreement with the NRC, including activities certified by the NRC under section 1701 of the Atomic Energy Act. Other exceptions are identified in 10 CFR Part 830.120.

#### H.67.2

The Contractor shall: (1) comply with all applicable requirements of Title 10 CFR Part 830.120, "Quality Assurance Requirements;" FDF's Quality Assurance Program (RM-0012, Attachment J.4.100, current edition, as revised from time to time), hereinafter referred to as "QAP;" and FDF's QA Rule Implementation Plan (PL-3029, Attachment J.4.101, current edition, as revised from time to time), hereinafter referred to as "QARIP" and (2) implement, document, and maintain such programs (e.g., administrative controls, procedures, and technical work documents) as necessary to ensure compliance with FDF's QAP, QARIP, and the QA requirements section of this contract. In all cases, key criteria from the QAP and QARIP which apply to Contractor work under this contract shall include organizational interfaces (Criteria 1, "Program") and reports and deliverables (Criteria 4, "Documents and Records"). The Contractor's programs and associated documents are subject to review at all times by FDF.

#### H.67.3

For occasions where reporting to DOE is necessary, the Contractor shall report through FDF via the programs identified in paragraph (b) of this clause.

#### H.67.4

The Contractor shall include the provisions of this clause, including this paragraph (d), in all lower tier subcontracts for any activity that has the potential to impact the safe operation of a FEMP non-reactor nuclear facility.

### H.68 Site Access

#### H.68.1

Definition: "Site," as used in this clause, means the Fernald Environmental Management Project, located at 7400 Willey Road, Fernald, OH.

#### H.68.2

DOE Orders prohibit access to the site of any person having in his or her possession contraband articles. Contraband articles include any dangerous weapons, explosive or other instrument or material likely to produce substantial injury or damage to persons or property and any prohibited drug, substance of abuse or associated paraphernalia. Persons and vehicles entering the site are subject to search. Anyone found to be in possession of contraband articles will be denied access to the site.

#### H.68.3

Any such denial of access will not excuse any failure to perform this contract in any way.

#### H.68.4

The Contractor shall include the provisions of this clause, including this paragraph (d), in all lower tier subcontracts.

#### H.69 Stop Work - APPLIES TO OFF-SITE ACTIVITIES ONLY

In addition to the requirements of Clause A.8, Stop Work Order of the General Provisions for Firm Fixed-Price Supply/Services Contracts dated August 1994, the following is added:

If at any time during performance of the Contractor's work, the Contractor's acts or failure to act causes substantial harm or an imminent danger to the health or safety of individuals or the environment, FDF may, without prejudice to any other legal or contractual rights, issue an order stopping all or any part of the work; thereafter, a start order for the resumption of the work may be issued at the discretion of FDF. The Contractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause. Nothing in this paragraph shall be construed to mean that the Contractor shall not be entitled to reimbursement of allowable costs incurred during the period of work stoppage.

#### H.70 Indemnity

Section A, Article 32, Indemnity, of the General Provisions for Firm Fixed-Price Supply/Services Contracts dated 8/94, is modified as follows:

Paragraph (b) is deleted, however, subparagraphs (i) and (ii) remain and subparagraph (i) is modified to read as follows:

(i) Seller agrees to indemnify and hold harmless Fluor Daniel, FERMCO and the Government, their parent, affiliated and subsidiary companies, including the employees, agents, representatives, officers and directors of each of them, from and against any claim, demand, cause of action, liability, loss or expense arising from personal injury (including death), or avoidable cost property damage, or avoidable cost under FDF's Prime Contract No. DE-AC24-92OH21972 to the extent that such personal injury property damage is caused by the negligence of Seller, its subcontractors or suppliers; and

#### **H.71 Integration of Environment, Safety, and Health Into Work Planning and Execution - APPLIES TO ON-SITE ACTIVITIES ONLY**

In performing work under this contract, the Contractor shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of the work. The Contractor shall exercise a degree of care commensurate with the work and the associated hazards. The Contractor shall ensure that management of environment, safety, health, pollution prevention, and waste minimization (ES&H) functions and activities becomes an integral but visible part of the Contractor's work planning and execution process.

The Contractor shall comply with, and assist FDF and the DOE in complying with, ES&H requirements of all applicable laws and regulations, applicable directives of the DOE, and the requirements of the FDF ES&H plan (Attachment J.4.104), as amended from time to time. The Contractor shall cooperate with federal and non-federal agencies having jurisdiction over ES&H matters under this contract.

The Contractor is responsible for compliance with the applicable ES&H requirements of this contract regardless of the performer of the work.

The Contractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements. If the Contractor fails to provide resolution, or if at any time the Contractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, FDF may issue an order stopping work in whole or in part. Any stop work order issued under this clause is without prejudice to any other legal or contractual rights of FDF or any third party. After the issuance of such a stop work order, the Contractor may not resume work until FDF, in its sole discretion, issues a written order to the Contractor requiring the resumption of the work. The Contractor shall make no claim for an extension of time or for compensation or damages by reason of, or in connection with, any such work stoppage.